

Proposed variation:	CR027 - Updated SMICoP Member Role and Responsibility to reflect Standard Licence Conditions of Supply (Gas and Electricity) ¹		
Decision:	The Authority ² has decided to withhold approval of CR027		
Target audience:	SMICoP Governance Board, SMICoP Members, all interested parties		
Date of publication:	14 January 2016	Implementation Date:	N/A

Authority decision on proposed Change Request CR027, Updated SMICoP Member Role and Responsibility to reflect Standard Licence Conditions of Supply (Gas and Electricity)

Background to the Change Request

Currently, under the SMICoP a 'Member' is defined as an organisation signed up to adhere to the code. SSE raised this change request due to concerns that:

- It is unclear who has formally acceded to the code, and therefore,
- Who can be expected in the industry to be following its conditions

The aim of this change is to provide greater clarity to all parties involved in the governance of the SMICoP, as well as licensees to whom standard licence conditions (SLC) 41 and 42 in the electricity supply licence or SLC 35 or 36 in the gas supply licence applies.

The Change Request

On 21 October 2015 a draft Change Request was presented to SMICoP Governance Board ("SGB").

The Final Change Report ("FCR") for CR027 was issued to us on 30 November 2015. This change request proposes to clarify the definition of the term Member to align with those who are obliged to comply under their gas and electricity supply licences. CR027 proposes to amend the definition of 'Member' or 'Members' to 'a licensee obliged under licence to comply with this Code'.

In addition to this, the request proposes to include an additional clause clarifying the responsibilities and roles of SMICoP members:

"B1.1A Members

1.1.A.1 The Members will be;

1.1.A.1.1. Responsible for acceding to the live version of the Code at the appropriate time;

1.1.A.1.2. Recipients of reports from the Code Change Management Process

1.1.A.2. The Members will be able to play an observational role (including observation at the SMICoP Governance Board and Sub-Group) as appropriate;

1.1.A.3 The Members can seek to become a SMICoP Governance Board Constituency Representative, as set out in 1.3 SMICoP Governance Board sub-clauses."

The SGB recommendation

¹ This change request can be found in the SMICoP change request log:

<http://www.smicop.co.uk/SitePages/Log.aspx#InplviewHash6f1c2ba7-87d2-47ab-b343-ab74e92fbd47=>

² The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

On 26 November 2015 SGB voted unanimously to accept the FCR for CR027.

Our decision

We have considered the issues raised by CR027, the details set out in the FCR and the votes of the SGB to accept the FCR for CR027 and Change Advisory Group's response and comments which are in Appendix B attached to the FCR.

We also considered these factors in light of whether CR027 would better facilitate the achievement of the objectives set out in Standard Conditions 41.2 and 42.1 of the Electricity Supply Licence and Standard Licence Conditions 35.2 and 36.1 of the Gas Supply Licence ("SMICoP Objectives"). We have concluded that implementation of CR027 would have a neutral impact on the achievement of the SMICoP Objectives.

In coming to our decision we have also considered our wider statutory duties, including particularly our principal objective to protect the interests of existing and future energy consumers. We are not confident that the proposed legal drafting of this change request will deliver outcomes that would protect or benefit energy consumers.

We have decided to withhold approval of CR027.

Reasons for our decision

Consideration against the SMICoP objectives

We have considered the impact of CR027 against the SMICoP objectives, considering objectives relevant to both domestic and microbusiness installations. This change request relates to governance of the Code, and we do not think that the changes directly impact (whether to the benefit or detriment) the Code's objectives. The SMICoP objectives relate to: providing a service that meets the customers reasonable expectations; conducting any activities linked to the installation in a fair, transparent, appropriate and professional manner; meeting various standards in terms of the information given about and during the installation; and not subjecting the customer to unwelcome marketing during the installation visit. Given this, we do not include detailed supporting reasons for each of the Code's objectives.

We consider that CR027 would have a neutral impact on the achievement of the SMICoP objectives.

Consideration against our principal objective

We also considered the impact of CR027 against our principal objective to protect the interests of existing and future energy consumers.

We do think there could be merits in having greater clarity about who is a member of SMICoP, and their roles and responsibilities. It could lead to more efficient engagement between industry parties and make it clear to members who have not yet self-certified how they can participate in SMICoP governance. Efficient processes can help suppliers successfully implement the SMICoP.

However we are not confident that the proposed legal text will ensure the intended outcomes. For example:

- It is unclear what is meant by members 'acceding' to the SMICoP code, what this entails or how this is a separate requirement from being required to self-certify compliance with SMICoP.
- The requirement of members to be responsible to accede to the code at the 'appropriate time' is ambiguous. It is possible that members may interpret the appropriate time to accede as once they have commenced smart meter installations and self-certified, which would defeat the purpose of the change request.

This could lead to additional ambiguity rather than clarity on the roles and responsibilities for SMICoP members. We have determined that creating further uncertainty around the SMICoP governance structure would have a negative impact on the ability for suppliers to implement SMICoP efficiently.

Decision notice

In accordance with the Section 2.7 of SMICoP, we hereby withhold our approval.

Rob Salter- Church

Partner, Consumers and Competition

Signed on behalf of the Authority and authorised for that purpose